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Fifty-first session
Agenda item 142

STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 49/48 of 9 December 1994.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 45th to 47th meetings, on 21, 22 and 26 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.45-47).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/51/215 and Corr.1 and Add.1).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/51/L.9 AND Rev.1

5. At the 45th meeting, on 21 November, the representative of Sweden, on behalf of Austria, Canada, Chile, Denmark, Finland, Iceland, New Zealand, Norway, Romania, the Russian Federation, Spain and Sweden, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva

Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/51/L.9).

6. At the 47th meeting, on 26 November, the representative of Sweden, on behalf of Austria, Canada, Chile, Denmark, Finland, Iceland, New Zealand, Norway, Romania, the Russian Federation, Spain and Sweden, joined subsequently by Argentina, Australia, Belarus, Bulgaria, Cameroon, Germany, Italy, Liechtenstein, Portugal, the Republic of Korea, the former Yugoslav Republic of Macedonia and Ukraine, introduced a revised draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/51/L.9/Rev.1), which contained the following changes:

(a) The fifth preambular paragraph, which had read:

"Stressing the need for consolidating and implementing the existing body of international humanitarian law and for the universal acceptance of such law",

was replaced with:

(b) A new operative paragraph 4 was inserted reading:

"4. Calls upon all States Parties to the additional Protocols to ensure their wide dissemination and full implementation";

(c) In operative paragraph 5 (former paragraph 4), the words "preventive measures and of" were deleted.

7. At the same meeting, the Committee adopted revised draft resolution A/C.6/51/L.9/Rev.1 without a vote (see para. 8).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992 and 49/48 of 9 December 1994,

Having considered the report of the Secretary-General[1] on the status of the Protocols Additional to the Geneva Conventions of 1949[2] and relating to the protection of victims of armed conflicts,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Recalling the possibility of making use, in relation to an armed conflict, of the International Fact-Finding Commission pursuant to article 90 of Protocol I,

Stressing the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of the two additional Protocols,

Noting that the Twenty-sixth International Conference of the Red Cross and Red Crescent was held at Geneva from 4 to 7 December 1995,

1. Appreciates the virtually universal acceptance of the Geneva Conventions of 1949 and the increasingly wide acceptance of the two additional Protocols of 1977;

2. Appeals to all States parties to the Geneva Conventions of 1949 that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date;

3. Calls upon all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;

4. Calls upon all States Parties to the additional Protocols to ensure their wide dissemination and full implementation;

5. Notes with satisfaction that the Twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the Final Declaration of the International Conference for the Protection of War Victims,[3] adopted on

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[1] A/51/215 and Corr.1 and Add.1.

[2] United Nations, Treaty Series, vol. 1125, Nos. 17512 and 17513.

[3] Ibid., vol. 75, Nos. 970-973.

1 September 1993, which reaffirms the necessity of making the implementation of international humanitarian law more effective;

6. Notes that the Twenty-sixth International Conference also endorsed the recommendations elaborated by the Intergovernmental Group of Experts which aim at translating the Final Declaration of the International Conference into concrete measures, including the recommendation that the Depositary of the Geneva Conventions of 1949 organize periodic meetings of States parties to these Conventions to consider general problems regarding the application of international humanitarian law;

7. Requests the Secretary-General to submit to the General Assembly at its fifty-third session a report on the status of the additional Protocols based on information received from Member States;

8. Decides to include in the provisional agenda of its fifty-third session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

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CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 49/49 of 9 December 1994.

2. At its 3rd plenary meeting, on 23 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 46th and 47th meetings, on 22 and 26 November 1996. The summary records of those meeting contain the views of representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.46 and 47).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Reports of the Secretary-General (A/INF/50/3 and A/51/257 and Add.1);

(b) Letter dated 29 August 1996 form the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General (A/51/321);

(c) Letter dated 18 September 1996 from the Permanent Representative of Eritrea to the United Nations addressed to the Secretary-General (A/51/378);

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(d) Letter dated 25 September 1996 from the Permanent Representative of Yemen to the United Nations addressed to the Secretary-General (A/51/413).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/51/L.12

5. At the 47th meeting, on 26 November, the representative of Finland, on behalf of Argentina, Austria, Canada, Chile, the Czech Republic, Denmark, Finland, Germany, Hungary, Iceland, the Netherlands, Norway, Romania, the Russian Federation, Sweden, Turkey, Ukraine and Uruguay, joined subsequently by Spain and the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" (A/C.6/51/L.12).

6. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.12 without a vote (see para. 8).

7. The representative of Mexico made a statement in explanation of position after the adoption of the draft resolution (see A/C.6/51/SR.47).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the report of the Secretary-General,[1]

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Dismayed by the recent acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which have endangered or taken innocent lives and seriously impeded the normal work of such representatives and officials,

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[1] A/51/257 and Add.1.

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the diplomatic or consular functions,

Emphasizing the duty of States to take all appropriate measures as required by international law, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established under General Assembly resolution 35/168 of 15 December 1980 and further elaborated in later Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. Takes note of the report of the Secretary-General;[1]

2. Strongly condemns acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. Urges States to strictly observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. Also urges States to take all necessary measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above and to bring offenders to justice;

5. Recommends that States should cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof;

6. Urges States to take all appropriate measures, in accordance with international law, at the national and international levels to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

7. Recommends that States should cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its judicial authorities in order to bring offenders to justice;

8. Calls upon States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. Also calls upon States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. Requests all States to report to the Secretary-General in accordance with paragraph 9 of resolution 42/154 of 7 December 1987;

11. Requests the Secretary-General to issue a report on the item, in accordance with paragraph 12 of resolution 42/154, containing also an analytical summary of the reports received under paragraph 10 above, on an annual basis, as well as to proceed with his other tasks pursuant to the same resolution;

12. Decides to include in the provisional agenda of its fifty-third session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".

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CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Convention on the law of the non-navigational uses of international watercourses" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 49/52 of 9 December 1994.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In accordance with resolution 49/52, the Sixth Committee convened as a working group of the whole, open to States Members of the United Nations or members of specialized agencies, for three weeks from 7 to 25 October 1996, to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments and observations of States and views expressed in the debate at the forty-ninth session.

4. For its consideration of the item, the Sixth Committee, convening as the Working Group of the Whole, had before it the draft articles adopted by the International Law Commission,[1] the report of the Secretary-General containing

[1] A/49/355 and Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), chap. III.D.

written comments and observations of States[2] and the topical summary prepared by the Secretariat containing views expressed in the Sixth Committee in the debate at the forty-ninth session of the General Assembly.[3]

5. The Sixth Committee, convening as the Working Group of the Whole considered the item at its 12th to 25th meetings, from 7 to 10, from 14 to 17 and on 25 October 1996, and drafted a report (A/C.6/51/L.3). The Committee considered the item at its 48th and 50th meetings, on 27 and 29 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the consideration of the item (A/C.6/50/SR.12-25, 48 and 50).

II. CONSIDERATION OF DRAFT RESOLUTIONS A/C.6/51/L.4 AND L.16

6. At its 48th meeting, on 27 November, the Committee had before it a draft resolution entitled "Convention on the law of the non-navigational uses of international watercourses" (A/C.6/51/L.4), submitted by France and Egypt, which read:

"The General Assembly,

"Reaffirming that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

"Taking into account the existence of bilateral or multilateral agreements governing the non-navigational uses of international watercourses, which should not be affected by the adoption of a new international instrument unless the parties to those agreements have otherwise decided,

"Also taking into account the fact that, despite the existence of a number of bilateral treaties and regional agreements, the use of international watercourses is still based in part on general principles and rules of customary law,

"Recalling its resolution 49/52 of 9 December 1994, by which it decided that the Sixth Committee should convene, at the beginning of the fifty-first session, as a Working Group of the Whole to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission,

"Noting that some progress was achieved in the elaboration of the convention but that the Working Group was unable to complete its task,

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[2] A/51/275 and Corr.1 and Add.1-3.

[3] A/CN.4/464/Add.1, sect. C.

"1. Decides that, at the earliest possible date during the fifty-second session of the General Assembly, the Sixth Committee shall convene a second session of the Working Group of the Whole for a period of at least two weeks to complete the elaboration of a framework convention on the law of the non-navigational uses of international watercourses;

"2. Also decides that the Working Group of the Whole shall continue its work, during its second session, building on the work already carried out by the Drafting Committee and the Working Group, as reflected in their reports, including the oral report of the President of the Drafting Committee;

"3. Further decides to include in the provisional agenda of its fifty-second session an item entitled 'Framework convention on the law of the non-navigational uses of international watercourses'."

7. The Committee also had before it a draft resolution entitled "Convention on the law of the non-navigational uses of international watercourses" (A/C.6/51/L.5), submitted by Brazil, which read:

"The General Assembly,

"Reaffirming that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

"Recalling its resolution 49/52 of 9 December 1994, by which it decided that the Sixth Committee should convene, at the beginning of the fifty-first session, as a Working Group of the Whole to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission,

"Noting that some progress was achieved in the elaboration of the convention but that the Working Group was unable to complete its task,

"1. Decides that the Working Group of the Whole of the Sixth Committee shall convene again for a period of two weeks between 27 January and 7 February 1997 to complete the task assigned to it in resolution 49/52;

"2. Also decides that on the completion of its work the Working Group shall report directly to the General Assembly;

"3. Further decides that the provisions of paragraphs 4 and 5 of resolution 49/52 shall continue to apply, and that the methods of work and procedures outlined in the annex to the present resolution shall be followed.

"ANNEX

"Methods of work and procedures

"1. The Working Group of the Whole shall maintain its Drafting Committee, which shall only consider the provisions of the draft articles prepared by the International Law Commission that it was unable to consider in its previous meetings, namely, articles 7 and 33, as well as the draft preamble and the set of final clauses prepared by the Secretariat.

"2. The basic texts before the Working Group of the Whole shall be the articles worked out by the Drafting Committee contained in its report, and in the additional report presented pursuant to paragraph 1 above.

"3. The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly."

8. Also at the 48th meeting, a draft resolution entitled "Convention on the law of the non-navigational uses of international watercourses" (A/C.6/51/L.16) was introduced by the representative of Mexico, coordinator of the negotiations on that draft resolution, who announced that the sponsors of draft resolutions A/C.6/51/L.4 and A/C.6/51/L.5 would not press for action on those texts.

9. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.16 without a vote (see para. 12).

10. At its 50th meeting, on 29 November, the Committee had before it a statement (A/C.6/51/L.24) of the programme budget implications of the draft resolution, prepared by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly.

11. The representative of the United States of America did not participate in the decision and made a statement in explanation of position (A/C.6/51/SR.50).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Convention on the law of the non-navigational uses of international watercourses

The General Assembly,

Bearing in mind Article 13, paragraph 1 (a), of the Charter of the United Nations,

Reaffirming its resolution 49/52 of 9 December 1994, by which it decided that the Sixth Committee should convene, at the beginning of the fifty-first session, as a working group of the whole to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission,

Noting that some progress was achieved in the elaboration of the convention, but that the Working Group will need more time to complete its mandate,

1. Takes note of the report of the Working Group of the Whole;[4]

2. Decides to convene a second session of the Working Group of the Whole of the Sixth Committee, for a period of two weeks, from 24 March to 4 April 1997 to elaborate a framework convention on the law of the non-navigational uses of international watercourses;

3. Also decides that on the completion of its mandate the Working Group of the Whole shall report directly to the General Assembly;

4. Further decides that the provisions of paragraph 5 of resolution 49/52 shall continue to apply, and that the methods of work and procedures outlined in the annex to the present resolution shall be followed.

ANNEX

Methods of work and procedures

1. The Working Group of the Whole shall continue its work building on the work already carried out by the Drafting Committee and the Working Group as reflected in their reports,[5] including the oral report of the President of the Drafting Committee.[6]

2. The Working Group of the Whole shall maintain its Drafting Committee, which shall consider the provisions of the draft articles prepared by the International Law Commission that it was unable to consider in its previous meetings, as well as the draft preamble and the set of final clauses.

3. Other issues arising from the reports referred to in paragraph 1 of the present annex, including those between brackets and with footnotes, shall be discussed in the Working Group of the Whole. The Working Group of the Whole may decide to refer to the Drafting Committee aspects of drafting related to those issues.

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[4] A/C.6/51/L.3.

[5] A/C.6/51/NUW/WG/L.1 and Corr.1 and 2, Add.1, Add.2 and Corr.1, Add.3 and Corr.1 and Add.4; and A/C.6/51/L.3.

[6] A/C.6/51/SR.24.

4. The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly.

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UNITED NATIONS DECADE OF INTERNATIONAL LAW

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "United Nations Decade of International Law" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 50/44 of 11 December 1995.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 42nd to 44th and 48th meetings, from 18 to 20 and on 27 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.42-44 and 48).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General (A/51/278 and Add.1);

(b) Letters dated 10, 11, 13, 16 and 30 September 1996 from the representative of Iraq addressed to the Secretary-General (A/51/344-S/1996/734, A/51/349-S/1996/742, A/51/363-S/1996/759, A/51/368-S/1996/760 and A/51/438-S/1996/812);

(c) Identical letters dated 10 September 1996 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the

Secretary-General and to the President of the Security Council (A/51/345-S/1996/739);

(d) Letter dated 18 September 1996 from the Permanent Representative of Bolivia to the United Nations addressed to the Secretary-General (A/51/394);

(e) Letters dated 30 September 1996 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General (A/51/462-S/1996/831 and A/51/473-S/1996/839);

(f) Letter dated 21 October 1996 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General (A/51/537-S/1996/867);

(g) Letter dated 22 October 1996 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General (A/51/550-S/1996/872).

5. The General Assembly, in paragraph 1 of its resolution 50/44 of 11 December 1995, had requested the Working Group on the United Nations Decade of International Law to continue its work at the fifty-first session in accordance with its mandate and methods of work. Pursuant to that request, the Sixth Committee, at its 3rd meeting, on 23 September 1996, elected Ms. Felicity Jane Wong (New Zealand) Chairman of the Working Group for the session. The Working Group held seven meetings, from 1 October to 26 November.

6. At the 48th meeting, on 27 November, the Chairman of the Working Group presented an oral report on the work accomplished by the Working Group (see A/C.6/51/SR.48).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/51/L.11

7. At the 48th meeting, on 27 November, the Chairman of the Working Group introduced a draft resolution entitled "United Nations Decade of International Law" (A/C.6/51/L.11).

8. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.11 without a vote (see para. 15, draft resolution I).

9. The representative of Lebanon made a statement in explanation of position (see A/C.6/51/SR.48).

B. Draft resolution A/C.6/51/L.13

10. At the 48th meeting, on 27 November, the representative of Australia introduced a draft resolution entitled "Electronic treaties database" (A/C.6/51/L.13), which had been proposed by the Chairman.

11. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.13 without a vote (see para. 15, draft resolution II).

C. Draft resolution A/C.6/51/L.6 and Corr.1 and Rev.1

12. The Committee had before it a draft resolution entitled "1999 action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law" (A/C.6/51/L.6 and Corr.1), submitted by the Netherlands and the Russian Federation.

13. At the 48th meeting, on 27 November, the representative of the Netherlands introduced a revised draft resolution (A/C.6/51/L.6/Rev.1), which had been proposed by the Chairman. The revised draft resolution contained the following changes:

(a) The sixth preambular paragraph, which had read:

> "Recalling that one of the purposes of the United Nations is to maintain international peace and security, inter alia, by means of settling or resolving international disputes or situations that can cause the infringement of peace",

was replaced with:

> "Recalling that one of the purposes of the United Nations is to maintain international peace and security, inter alia, by means of adjustment or settlement of international disputes or situations which might lead to a breach of the peace";

(b) In the ninth preambular paragraph, the words "for the international community" were inserted after the word "need";

(c) In the last preambular paragraph, the words "to the implementation" were replaced with the words "with the development";

(d) In operative paragraph 2, the word "Requests" was replaced with the word "Invites".

14. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.6/Rev.1 without a vote (see para. 15, draft resolution III).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

15. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

United Nations Decade of International Law

The General Assembly,

Recalling its resolution 44/23 of 17 November 1989, by which it declared the period 1990-1999 the United Nations Decade of International Law,

Recalling also that the main purposes of the Decade, according to resolution 44/23, should be, inter alia:

(a) To promote acceptance of and respect for the principles of international law;

(b) To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;

(c) To encourage the progressive development of international law and its codification;

(d) To encourage the teaching, study, dissemination and wider appreciation of international law,

Recalling further its resolution 49/50 of 9 December 1994, to which was annexed the programme for the activities for the third term (1995-1996) of the Decade,

Expressing its appreciation to the Secretary-General for his report[1] submitted pursuant to resolution 50/44 of 11 December 1995,

Having considered the above-mentioned report,

Recalling that at the forty-fifth session of the General Assembly the Sixth Committee established the Working Group on the United Nations Decade of International Law with a view to preparing generally acceptable recommendations on the programme of activities for the Decade,

Noting that at the fifty-first session the Sixth Committee reconvened the Working Group to continue its work in accordance with resolution 50/44 and all previous resolutions on the item,

Having considered the oral report of the Chairman of the Working Group submitted to the Sixth Committee,[2]

1. Expresses its appreciation to the Sixth Committee for the elaboration, within the framework of its Working Group on the United Nations Decade of

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[1] A/51/278 and Add.1.

[2] See A/C.3/51/SR.48.

International Law, of the programme of activities for the final term (1997-1999) of the Decade, and requests the Working Group to continue its work at the fifty-second session in accordance with its mandate and methods of work;

2. Also expresses its appreciation to States and international organizations and institutions that have undertaken activities in implementation of the programme for the third term (1995-1996) of the Decade, including sponsoring conferences on various subjects of international law;

3. Adopts the programme of activities for the final term (1997-1999) of the Decade contained in the annex to the present resolution;

4. Recalls, with appreciation to the Secretary-General, the successful organization of the United Nations Congress on Public International Law, held from 13 to 17 March 1995, which focused on the four main purposes of the Decade, as well as on new challenges and expectations for the twenty-first century, and welcomes the publication of the proceedings of the Congress;

5. Welcomes the establishment of the International Tribunal for the Law of the Sea under the United Nations Convention on the Law of the Sea[3] as a new means of settlement of disputes;

6. Encourages the Office of Legal Affairs of the Secretariat to continue in its efforts to bring up to date the publication of the United Nations Juridical Yearbook;

7. Invites all States and international organizations and institutions referred to in the programme to undertake the relevant activities outlined therein and to provide information in this respect to the Secretary-General for transmission to the General Assembly at its fifty-fourth session;

8. Requests the Secretary-General to submit, on the basis of such information and of new information on the activities of the United Nations relevant to the progressive development of international law and its codification, a final report to the General Assembly at its fifty-fourth session on the implementation of the programme;

9. Encourages States to disseminate at the national level, as appropriate, information contained in the report of the Secretary-General;

10. Appeals to States, international organizations and non-governmental organizations working in the field of international law and to the private sector to make financial contributions or contributions in kind for the purpose of facilitating the implementation of the programme;

11. Once again requests the Secretary-General to bring to the attention of States and international organizations and institutions working in the field of international law the programme annexed to the present resolution;

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[3] Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

12. Takes note with appreciation of the activities undertaken by the International Committee of the Red Cross in the field of international humanitarian law, including with regard to the protection of the environment in times of armed conflict;

13. Decides to include in the provisional agenda of its fifty-second session the item entitled "United Nations Decade of International Law".

ANNEX

Programme for the activities for the final term (1997-1999) of the United Nations Decade of International Law

I. PROMOTION OF THE ACCEPTANCE OF AND RESPECT FOR THE PRINCIPLES OF INTERNATIONAL LAW

1. The General Assembly, bearing in mind that maintenance of international peace and security is the underlying condition for the success of the implementation of the programme for the United Nations Decade of International Law, calls upon States to act in accordance with international law, and in particular the Charter of the United Nations, and encourages States and international organizations to promote the acceptance of and respect for the principles of international law.

2. States are invited to consider, if they have not yet done so, becoming parties to existing multilateral treaties, in particular those relevant to the progressive development of international law and its codification. International organizations under whose auspices such treaties are concluded are invited to indicate whether they publish periodic reports on the status of ratifications of and accessions to multilateral treaties and, if they do not, to indicate whether in their view such a process would be useful. Consideration should be given to the question of treaties that have not achieved wider participation or entered into force after a considerable lapse of time and the circumstances causing the situation.

3. States and international organizations are encouraged to provide assistance and technical advice to States, in particular to developing countries, to facilitate their participation in the process of multilateral treaty-making, including their adherence to and implementation of multilateral treaties, in accordance with their national legal systems.

4. States are encouraged to report to the Secretary-General on ways and means provided for in the multilateral treaties to which they are parties, regarding the implementation of such treaties. International organizations are similarly encouraged to report to the Secretary-General on ways and means provided for by the multilateral treaties concluded under their auspices regarding the implementation of such treaties. The Secretary-General is requested to prepare a report on the basis of this information and to submit it to the General Assembly.

5. The General Assembly, recognizing the importance of the protection of cultural property in the event of armed conflict, takes note of the efforts

under way to facilitate the implementation of existing international instruments in this field.

II. PROMOTION OF MEANS AND METHODS FOR THE PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES, INCLUDING RESORT TO AND FULL RESPECT FOR THE INTERNATIONAL COURT OF JUSTICE

6. States, the United Nations system of organizations and regional organizations, including the Asian-African Legal Consultative Committee, as well as the International Law Association, the Institute of International Law, the Hispano-Luso-American Institute of International Law and other international institutions working in the field of international law, and national societies of international law, are invited to study the means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, and to present suggestions for the promotion thereof to the Sixth Committee.

7. Noting the establishment of the International Tribunal for the Law of the Sea in October 1996 in accordance with the United Nations Convention on the Law of the Sea,[3] States and other entities referred to in article 20 of annex VI of the Convention are encouraged to consider making use of the Tribunal for the peaceful settlement of disputes in accordance with article 21 of annex VI of the Convention.

8. Taking into account the suggestions mentioned in paragraph 1 of the present section and with due regard to the recommendations contained in the report of the Secretary-General entitled "An Agenda for Peace",[4] the Sixth Committee should consider, where appropriate, on the basis of a report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, or of the Working Group on the United Nations Decade of International Law, the following questions:

(a) Strengthening the use of means and methods for the peaceful settlement of disputes, with particular attention to the role to be played by the United Nations, as well as methods for early identification and prevention of disputes and their containment;

(b) Procedures for the peaceful settlement of disputes arising in specific areas of international law;

(c) Ways and means of encouraging greater recognition of the role of the International Court of Justice and its wider use in the peaceful settlement of disputes;

(d) Enhancement of cooperation of regional organizations with the United Nations system of organizations in respect of the peaceful settlement of disputes;

(e) Wider use of the Permanent Court of Arbitration.

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[4] A/47/277-S/24111.

III. ENCOURAGEMENT OF THE PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW AND ITS CODIFICATION

9. International organizations, including the United Nations system of organizations and regional organizations, are invited to submit to the Secretary-General of the United Nations summary information regarding the programme and results of their work relevant to the progressive development of international law and its codification, including their suggestions for future work in their specialized field, with an indication of the appropriate forum to undertake such work. Similarly, the Secretary-General is requested to prepare a report on the relevant activities of the United Nations, including those of the International Law Commission. Such information should be presented in a final report by the Secretary-General to the Sixth Committee.

10. On the basis of the information mentioned in paragraph 9 above, States are invited to submit suggestions for consideration by the Sixth Committee and, as appropriate, recommendations. In particular, efforts should be made to identify areas of international law that might be ripe for progressive development or codification.

11. The Sixth Committee should study, taking into account General Assembly resolution 684 (VII) of 6 November 1952,[5] its coordinating role with respect, inter alia, to the drafting of provisions of a legal nature and the consistent use of legal terminology in international instruments adopted by the General Assembly. States are invited to present proposals in this regard to the Sixth Committee.

12. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should continue to study possible measures to strengthen the United Nations system for the maintenance of international peace and security. In that context, the Special Committee should bear in mind the debate within the United Nations, in particular in the General Assembly, of the Secretary-General's report entitled "An Agenda for Peace".

IV. ENCOURAGEMENT OF THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW

13. Within the context of considering appropriate activities to mark the final term of the Decade's programme, States, the United Nations system of organizations and regional organizations and institutions referred to in the programme should encourage:

(a) The publication of essays on subjects of international law written by legal advisers of States and international organizations, scholars and other legal practitioners providing a useful perspective on international law as viewed from their standpoint;

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[5] See annex II to the rules of procedure of the General Assembly (A/520/Rev.15).

(b) The organization at the national, regional and international level of symposia, conferences, seminars, lectures and meetings on selected topics or themes of international law during the remaining years of the Decade to celebrate the end of it. Suggested topics for consideration could include, without limiting other suggestions, the contribution of the United Nations to international law; more effective means of implementing the rules of international law; merits or otherwise of treaties and other forms of instruments such as resolutions, declarations and so on; future topics for the International Law Commission; and the role of the International Court of Justice in the settlement of disputes and advisory opinions.

14. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should, in the context of the Decade, continue to formulate, as appropriate and in a timely manner, relevant guidelines for the Programme's activities and report to the Sixth Committee on the activities carried out under the Programme in accordance with such guidelines. Special emphasis should be given to supporting academic and professional institutions already carrying out research and education in international law, as well as to encouraging the establishment of such institutions where they might not exist, in particular in the developing countries. States and other public or private bodies are encouraged to contribute to the strengthening of the Programme.

15. States and law faculties of higher educational institutions are encouraged to include international law as a core subject in their curricula. They are also encouraged to introduce courses in international law for students studying law, political science, social sciences and other relevant disciplines; they should study the possibility of introducing topics of international law in the curricula of schools at the primary and secondary levels. They should also consider introducing public international law courses geared towards career training and the establishment of clinical programmes in various areas of international law. Cooperation between institutions at the university level among developing countries, on the one hand, and their cooperation with those of developed countries, on the other, should be encouraged.

16. States should consider convening conferences of experts at the national and regional levels in order to study the question of preparing model curricula and materials for courses in international law, training of teachers in international law, preparation of textbooks on international law and the use of modern technology to facilitate the teaching of and research in international law.

17. States, international organizations and professional and academic institutions should consider making available materials to the United Nations audio-visual library on international law proposed by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

18. States are encouraged to organize special training in international law for legal professionals, including judges, and personnel of ministries of foreign affairs and other relevant ministries as well as military personnel. The United Nations Institute for Training and Research, the United Nations Educational, Scientific and Cultural Organization, the Hague Academy of

International Law, the International Institute of Humanitarian Law, regional organizations and the International Committee of the Red Cross are invited to continue cooperating with States in this respect.

19. In connection with training of military personnel, States are encouraged to foster the teaching and dissemination of the principles governing the protection of the environment in times of armed conflict and should consider the possibility of making use of the guidelines for military manuals and instructions prepared by the International Committee of the Red Cross.[6]

20. Cooperation among developing countries, as well as between developed and developing countries, in particular among those persons who are involved in the practice of international law, for exchanging experience and for mutual assistance in the field of international law, including assistance in providing textbooks and manuals of international law, is encouraged.

21. In order to make better known the practice of international law, States and international and regional organizations should endeavour to publish, if they have not done so, summaries, repertories or yearbooks of their practice. They should also endeavour to place this material on computer networks for wider and instant distribution. The Office of Legal Affairs of the Secretariat is encouraged to continue its efforts in this regard, including through its participation in the Global Legal Information Network project.

22. The Secretary-General, in cooperation with the Registry of the International Court of Justice, is encouraged to publish, to the extent feasible and in a timely manner, the publication updating the Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice (1949-1991),[7] at present under preparation, in all official languages of the Organization.

23. Other international courts and tribunals, including the European Court of Human Rights and the Inter-American Court of Human Rights, are invited to disseminate more widely their judgements and advisory opinions, and to consider preparing thematic or analytical summaries thereof.

24. International organizations are encouraged to publish treaties concluded under their auspices, if they have not yet done so. Timely publication of the United Nations Juridical Yearbook is also encouraged.

V. PROCEDURES AND ORGANIZATIONAL ASPECTS

25. The Sixth Committee, working primarily through its Working Group on the United Nations Decade of International Law and with the assistance of the Secretariat, will be the coordinating body of the programme for the Decade. The question of the use of an intra-sessional, inter-sessional or existing body to carry out specific activities of the programme may be considered by the General Assembly.

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[6] A/49/323, annex.

[7] ST/LEG/SER.F/1 (United Nations publication, Sales No. E.92.V.5).

26. States are encouraged to establish, as necessary, national, subregional and regional committees, which may assist in the implementation of the programme for the Decade. Non-governmental organizations are encouraged to promote the purposes of the Decade within the fields of their activities, as appropriate.

27. Voluntary contributions from Governments, international organizations and other sources, including the private sector, would be useful and are strongly encouraged in order to implement the programme for the Decade. To that end, the establishment of a trust fund to be administered by the Secretary-General might be considered by the General Assembly.

DRAFT RESOLUTION II

Electronic treaties database

The General Assembly,

Conscious of the obligations resulting from Article 102 of the Charter of the United Nations and the importance of treaties in the development of international law and the international legal order,

Noting that the recent expansion of the membership of the Organization, combined with an increase in international treaty-making activity, has led to the growth in the volume of work carried out by the Treaty Section of the Office of Legal Affairs of the Secretariat, and contributed to the accumulation of unpublished treaties,

Recognizing, consistent with the obligation contained in Article 102 of the Charter, the importance of the expeditious processing, registration and publication of treaties and treaty-related actions,

Welcoming the range of measures already taken by the Treaty Section of the Office of Legal Affairs to expedite the publication of the United Nations Treaty Series and to provide electronic access to the publication Multilateral Treaties Deposited with the Secretary-General through the Internet,

Desirous that all efforts are made to ensure that the Treaty Section develops a comprehensive electronic database containing all treaty depositary and registration information,

Noting the steps taken by the Ad Hoc Open-Ended Working Group on Informatics established by the Economic and Social Council to harmonize and improve United Nations information systems for optimal utilization and accessibility by all Member States,

Noting also that the existing and proposed Internet access to United Nations treaties publications is and will be in addition to the hard-copy printed versions of such publications,

1. Welcomes the statement of objective contained in the report of the Secretary-General on the United Nations Decade of International Law, to develop

a comprehensive electronic database containing all depositary and registration information and disseminate electronically treaty and treaty law-related information from the database, including on-line access;[8]

2. Recalls the request of the Legal Counsel that in order to expedite the registration and publication of treaties all Member States submit treaty texts in disk or other electronic format in addition to the certified print copy;

3. Requests the Secretary-General to continue to give priority to the implementation of the computerization programme in the Treaty Section;

4. Calls upon the Secretary-General to ensure that all necessary support is provided to expedite the publication of the printed version of the United Nations Treaties Series through the prompt provision of the necessary equipment and translation services;

5. Endorses the proposed Internet dissemination of the United Nations Treaty Series, following the same rules applicable to the printed version of the publication, in addition to the current access to the Multilateral Treaties Deposited with the Secretary-General, and recognizes that Internet access to treaties and treaty law-related information is particularly valuable in countries where the cost of maintaining complete collections of treaties in bound volume form is relatively high;

6. Also endorses the Secretary-General's exploring the economic and practical feasibility of recovering the costs of providing such Internet access to the United Nations Treaty Series and the Multilateral Treaties Deposited with the Secretary-General, subject to Member States, organizations of the United Nations system, international organizations and other non-commercial users not being charged a user fee, and presenting his findings to Member States;

7. Invites the Secretary-General to consider the possibility of translating the list of titles of treaties appearing in the publication Multilateral Treaties Deposited with the Secretary-General into the other official languages of the United Nations and disseminating such lists via the Internet, and to present a report to the General Assembly at its fifty-second session;

8. Invites the specialized agencies of the United Nations, other international organizations and Member States with depositary functions for multilateral treaties to use their best endeavours to provide Internet access to treaties and treaty law-related information as soon as practicable.

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[8] A/51/278, para. 91.

DRAFT RESOLUTION III

1999 action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law

The General Assembly,

Noting that the year 1999 will mark the one hundredth anniversary of the historic first International Peace Conference, held at The Hague on the initiative of Russia,

Recalling its resolution 44/23 of 17 November 1989, by which it proclaimed the United Nations Decade of International Law, to begin in 1989 and conclude in 1999, marking the centennial of the first International Peace Conference,

Recognizing that the first and the second International Peace Conferences, as well as the League of Nations and the United Nations subsequently, have significantly encouraged the progressive development and codification of international law and thereby contributed to the maintenance of international peace and security,

Recognizing also the invaluable contribution of the first International Peace Conference to the settling or resolving of international disputes or situations which can cause the infringement of peace, by adopting the Convention for the Pacific Settlement of International Disputes[9] and establishing the Permanent Court of Arbitration,

Recalling that the Final Act of the second International Peace Conference incorporated a proposal to convene a third international peace conference,

Recalling that one of the purposes of the United Nations is to maintain international peace and security, inter alia, by means of adjustment or settlement of international disputes or situations which might lead to a breach of the peace,

Recalling that, according to its resolution 44/23, one of the main purposes of the Decade of International Law is "to promote means and methods for the settlement of disputes between States, including resort to and full respect for the International Court of Justice",

Recalling also that, at the forty-fifth session of the General Assembly, the Sixth Committee convened the Working Group on the United Nations Decade of International Law with a view to preparing generally acceptable recommendations on the programme of activities for the Decade, and that the Working Group has been reconvened at all subsequent sessions of the General Assembly and was requested at the fiftieth session to continue its work,

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[9] See Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915).

Stressing the need for the international community to continue efforts with a view to strengthening international peace and security, achieving full compliance with international law and promoting its progressive development,

Recalling that in its resolution 44/23 it requested the Secretary-General to seek the views of Member States and appropriate international bodies, as well as of non-governmental organizations working in the field, on the programme for the Decade and on appropriate action to be taken during the Decade, including the possibility of holding a third international peace conference or other suitable international conference at the end of the Decade,

Noting that the Heads of State and Government of the Movement of Non-Aligned Countries at their ninth summit meeting reaffirmed General Assembly resolution 44/23 and the strong support of the Movement for the programme of the United Nations Decade of International Law, including the recommendation of holding a third international peace conference at the conclusion of the Decade on the occasion of the one hundredth anniversary of the first International Peace Conference,

Noting also the proposal by the Russian Federation for a third international peace conference with a view to considering international law and order in the post-cold-war world at the threshold of the twenty-first century,

Convinced that the United Nations could assist significantly with its expertise and knowledge with the development of such a proposal,

1. Considers it desirable to draft a programme of action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law;

2. Invites the Governments of the Russian Federation and the Netherlands to arrange, as a matter of urgency, a preliminary discussion with other interested Member States on the substantive content of 1999 action and to seek, in this respect, the cooperation of the International Court of Justice, the Permanent Court of Arbitration, relevant intergovernmental organizations, as well as other relevant organizations;

3. Calls upon the competent United Nations organs, programmes and specialized agencies to study the possibilities of providing assistance to that end;

4. Decides to include in the provisional agenda of its fifty-second session, under the item entitled "United Nations Decade of International Law", a sub-item entitled "1999 action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law".

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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-EIGHTH SESSION

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-first session the item entitled "Report of the International Law Commission on the work of its forty-eighth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 31st to 42nd, 48th and 49th meetings, from 4 to 8 and 11 to 15 and on 27 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.31-42, 48 and 49).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the International Law Commission on the work of its forty-eighth session;[1]

(b) Note by the Secretary-General containing the text of the draft articles adopted by the International Law Commission on topics considered at its forty-eighth session (A/51/332 and Corr.1);

[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1).

(c) Report of the Secretary-General containing comments received from Governments with regard to paragraph 8 of General Assembly resolution 50/45 of 11 December 1995 (A/51/338 and Add.1);

(d) Report of the Secretary-General containing comments received from Governments with regard to paragraph 10 of resolution 50/45 (A/51/365).

4. The Chairman of the International Law Commission at its forty-eighth session introduced the report of the Commission: chapters I and II at the 31st meeting, on 4 November; chapter III at the 34th meeting, on 7 November; chapters IV, V and VI at the 37th meeting, on 11 November; and chapter VII at the 40th meeting, on 14 November. At the 41st meeting, on 15 November, the Chairman of the Commission made a statement in the light of the debate.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/51/L.17

5. At the 48th meeting, on 27 November, the representative of India introduced a draft resolution entitled "Report of the International Law Commission on the work of its forty-eighth session" (A/C.6/51/L.17), which had been proposed by the Chairman.

6. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.17 without a vote (see para. 8).

7. The representative of Lebanon made a statement in explanation of position (see A/C.6/51/SR.48).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its forty-eighth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-eighth session,[2]

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the

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[2] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1).

Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[3]

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of government representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. Takes note of the report of the International Law Commission on the work of its forty-eighth session;[2]

2. Expresses its appreciation to the International Law Commission for the work accomplished at the forty-eighth session, in particular for completing the final draft articles on the draft Code of Crimes against the Peace and Security of Mankind and the provisional draft articles on State responsibility, and draws the attention of the States participating in the Preparatory Committee for the Establishment of an International Criminal Court to the relevance of the draft Code to their work;

3. Requests the Secretary-General to invite Governments to present, before the end of the fifty-third session of the General Assembly, their written comments and observations on action which might be taken in relation to the draft Code of Crimes against the Peace and Security of Mankind;

4. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

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[3] Resolution 2625 (XXV), annex.

5. Draws the attention of Governments to the importance, for the International Law Commission, of having their views on the draft articles on State responsibility adopted on first reading by the Commission, and urges them to present in writing their comments and observations by 1 January 1998, as requested by the Commission;

6. Encourages Governments that may wish to do so to provide their comments and observations in writing on the report of the Working Group on International Liability for Injurious Consequences Arising out of Acts not Prohibited by International Law annexed to the report of the International Law Commission in order that the Commission may, in the light of the report of the Working Group and such comments and observations as may be made by Governments and those that have been made in the Sixth Committee, consider at its forty-ninth session how to proceed with its work on the topic and make early recommendations thereon;

7. Invites States and international organizations, particularly those that are depositaries, to answer promptly the questionnaire prepared by the Special Rapporteur on the topic concerning reservations to treaties;

8. Takes note of the completion of the preliminary study of the topic "State succession and its impact on the nationality of natural and legal persons", and requests the International Law Commission to undertake the substantive study of the topic entitled "Nationality in relation to the succession of States" in accordance with the modalities provided for in paragraph 88 of its report, and invites Governments to submit comments on the practical problems raised by succession of States affecting nationality of legal persons;

9. Takes note with appreciation of paragraphs 143 to 244 of the report of the International Law Commission concerning its procedures and working methods;

10. Takes note of the comments of the International Law Commission on the question of a split session, as presented in paragraphs 228 to 233 of its report;

11. Encourages the International Law Commission, in relation to its internal matters, to take decisions which could contribute to its efficiency and productivity;

12. Takes note of the decision of the International Law Commission contained in paragraph 256 of its report on the duration of its next session;

13. Invites the International Law Commission further to examine the topics "Diplomatic protection" and "Unilateral acts of States", and to indicate the scope and the content of the topics in the light of the comments and observations made during the debate in the Sixth Committee on the report and any written comments that Governments may wish to submit;

14. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, those specific issues, if any, on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

16. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars with adequate services, including interpretation, as required;

17. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-first session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

18. Also requests the Secretary-General to make appropriate arrangements to commemorate the fiftieth anniversary of the establishment of the International Law Commission through a colloquium on the progressive development and codification of international law, to be held during the consideration in the Sixth Committee of the report of the Commission on the work of its forty-ninth session;

19. Recommends that the debate on the report of the International Law Commission at the fifty-second session of the General Assembly commence on 27 October 1997.

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ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Establishment of an international criminal court" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 50/46 of 11 December 1996.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 26th to 30th and 48th to 50th meetings, on 28, 29 and 31 October and 1, 27 and 29 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.26-30, and 48-50).

4. For its consideration of the item, the Committee had before it the report of the Preparatory Committee on the Establishment of an International Criminal Court,[1] which had held two sessions in 1996 pursuant to resolution 50/46. At the 26th meeting, on 28 October, the Chairman of the Preparatory Committee introduced the report.

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[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 22 (A/51/22).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/51/L.10

5. At the 48th meeting, on 27 November, the representative of the Netherlands introduced a draft resolution entitled "Establishment of an international criminal court" (A/C.6/51/L.10), which had been proposed by the Chairman.

6. The Committee also had before it a statement (A/C.6/51/L.22) of the programme budget implications of the draft resolution, prepared by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly.

7. At its 50th meeting, on 29 November, the Committee adopted draft resolution A/C.6/51/L.10 without a vote (see para. 10).

8. The representative of China made a statement in explanation of position (see A/C.6/51/SR.50).

9. The United States of America did not participate in the decision and made a statement in explanation of position (ibid.).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Establishment of an international criminal court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992 and 48/31 of 9 December 1993,

Recalling also that the International Law Commission adopted a draft statute for an international criminal court[2] at its forty-sixth session and decided to recommend that an international conference of plenipotentiaries be convened to study the draft statute and to conclude a convention on the establishment of an international criminal court,[3]

Recalling further its resolution 49/53 of 9 December 1994, in which it decided to establish an ad hoc committee, open to all States Members of the United Nations or members of specialized agencies, to review the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, in the light of that review, to

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[2] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), para. 91.

[3] Ibid., para. 90.

consider arrangements for the convening of an international conference of plenipotentiaries,

Recalling its resolution 50/46 of 11 December 1995, in which it decided, in the light of the report of the Ad Hoc Committee on the Establishment of an International Criminal Court,[4] to establish a preparatory committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, to discuss further the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, taking into account the different views expressed during the meetings, to draft texts, with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court as a next step towards consideration by a conference of plenipotentiaries, and also decided that the work of the Preparatory Committee should be based on the draft statute prepared by the International Law Commission and should take into account the report of the Ad Hoc Committee and the written comments submitted by States to the Secretary-General on the draft statute for an international criminal court pursuant to paragraph 4 of General Assembly resolution 49/53 and, as appropriate, contributions of relevant organizations,

Noting that the Preparatory Committee continued the discussion of the major substantive and administrative issues arising out of the draft statute and initiated consideration of draft texts, with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court,

Noting also that major substantive and administrative issues remain to be resolved,

Noting further that the Preparatory Committee, in the light of the progress made, and deeply aware of the commitment of the international community to the establishment of an international criminal court, recommended that the General Assembly reaffirm the mandate of the Preparatory Committee and give further directions to it,

Recalling that in its resolution 50/46 it resolved to decide, in the light of the report of the Preparatory Committee, on the convening of an international conference of plenipotentiaries to finalize and adopt a convention on the establishment of an international criminal court, including on the timing and duration of the conference,

Noting that the Preparatory Committee, recognizing that this is a matter for the General Assembly, and on the basis of its scheme of work, considered that it is realistic to regard the holding of a diplomatic conference of plenipotentiaries in 1998 as feasible,

Aware of the necessity to maintain some flexibility in the organization of the future work in order to ensure the success of the conference of plenipotentiaries,

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[4] Ibid., Fiftieth Session, Supplement No. 22 (A/50/22).

Expressing deep appreciation for the renewed offer of the Government of Italy to host a conference on the establishment of an international criminal court in June 1998,

1. Takes note of the report of the Preparatory Committee on the Establishment of an International Criminal Court,[5] including the recommendations contained therein, and expresses its appreciation to the Preparatory Committee for the useful work done and the progress made in fulfilling its mandate;

2. Takes note also of the various views of Governments expressed during the consideration of the report of the Preparatory Committee in the Sixth Committee during the fifty-first session of the General Assembly;

3. Decides to reaffirm the mandate of the Preparatory Committee and directs it to proceed in accordance with paragraph 368 of its report;[6]

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[5] Ibid., Fifty-first Session, Supplement No. 22 (A/51/22).

[6] Paragraph 368 of the report (A/51/22, vol. I) reads as follows:

"The Preparatory Committee wishes to emphasize the usefulness of its discussions and the cooperative spirit in which the debates took place. In light of the progress made and with an awareness of the commitment of the international community to the establishment of an international criminal court, the Preparatory Committee recommends that the General Assembly reaffirm the mandate of the Preparatory Committee and give the following directions to it:

"(a) To meet three or four times up to a total of nine weeks before the diplomatic conference. To organize its work so that it will be finalized in April 1998 and so as to allow the widest possible participation of States. The work should be done in the form of open-ended working groups, concentrating on the negotiation of proposals with a view to producing a draft consolidated text of a convention to be submitted to the diplomatic conference. No simultaneous meetings of the working groups shall be held. The working methods should be fully transparent and should be by general agreement in order to secure the universality of the convention. Submission of reports on its debates will not be required. Interpretation and translation services will be available to the working groups;

"(b) To deal with the following:

(i) Definition and elements of crimes;

(ii) Principles of criminal law and penalties;

(iii) Organization of the Court;

(iv) Procedures;

(v) Complementarity and trigger mechanism;

(vi) Cooperation with States;

(vii) Establishment of the International Criminal Court and its relationship with the United Nations;

(viii) Final clauses and financial matters;

(ix) Other matters."

4. Also decides that the Preparatory Committee will meet from 11 to 21 February, from 4 to 15 August and from 1 to 12 December 1997, and from 16 March to 3 April 1998, in order to complete the drafting of a widely acceptable consolidated text of a convention, to be submitted to the diplomatic conference, and requests the Secretary-General to provide the Preparatory Committee with the necessary facilities for the performance of its work;

5. Further decides that a diplomatic conference of plenipotentiaries will be held in 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court;

6. Urges participation in the Preparatory Committee by the largest number of States so as to promote universal support for an international criminal court;

7. Requests the Secretary-General to establish a special fund for the participation of the least developed countries in the work of the Preparatory Committee and in the diplomatic conference of plenipotentiaries, and calls upon States to contribute voluntarily to that special fund;

8. Decides to include in the provisional agenda of its fifty-second session the item entitled "Establishment of an international criminal court", in order to make the necessary arrangements for the diplomatic conference of plenipotentiaries to be held in 1998, unless the General Assembly decides otherwise in view of relevant circumstances.

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REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-NINTH SESSION

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-first session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 3rd, 4th and 47th meetings, on 23 and 24 September and 26 November 1996. The views of the representatives who spoke during the Committee's consideration of the item are set out in the relevant summary records (A/C.6/51/SR.3, 4 and 47).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session;[1]

(b) Report of the Secretary-General on the implementation of paragraph 9 of General Assembly resolution 50/47 on granting travel assistance to delegates of developing countries (A/51/382);

[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17).

(c) Letter dated 21 May 1996 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General transmitting the communiqué issued by the Ministers for Foreign Affairs and heads of delegation of the Movement of Non-Aligned Countries on the occasion of the Meeting of the Ministerial Committee on Methodology, held at Cartagena de Indias on 15 and 16 May 1996.

4. At the 3rd meeting, on 23 September, the Chairman of the United Nations Commission on International Trade Law at its twenty-ninth session introduced the report of the Commission on the work of that session (see A/C.6/51/SR.3).

5. At the 4th meeting, on 24 September, the Chairman of the Commission made a closing statement (see A/C.6/51/SR.4).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/51/L.7

6. At the 47th meeting, on 26 November, the representative of Austria, on behalf of Albania, Algeria, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, India, Israel, Italy, Kenya, Mexico, Mongolia, Morocco, Nigeria, Norway, Peru, Poland, Portugal, Romania, Singapore, Slovakia, Slovenia, Spain, Sweden, Thailand, Turkey, Uganda, Uruguay and Venezuela, later joined by Bolivia, Malaysia and Nepal, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session" (A/C.6/51/L.7). The representative of Austria then proposed the following amendments to draft resolution A/C.6/51/L.7:

(a) In operative paragraph 12, deletion of the word ", within existing resources,";

(b) In operative paragraph 13, deletion of the words "that adequate resources are allocated for".

7. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.7, as orally amended, without a vote (see para. 10, draft resolution I).

B. Draft resolution A/C.6/51/L.8

8. At the 47th meeting, on 26 November, the representative of Austria, on behalf of Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Guatemala, Hungary, Israel, Italy, Kenya, Mexico, Norway, Portugal, Singapore, Slovakia, Slovenia, Spain, Sweden, Thailand, United States of America, Uruguay, and Venezuela, later joined by Japan, introduced a draft resolution entitled "Model Law on Electronic Commerce

adopted by the United Nations Commission on International Trade Law" (A/C.6/51/L.8).

9. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.8 without a vote (see para. 10, draft resolution II).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and thereby to the well-being of all peoples,

Stressing the value of participation by States at all levels of economic development and with different legal systems in the process of harmonizing and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session,[2]

Mindful of the valuable contribution to be rendered by the Commission within the framework of the United Nations Decade of International Law, particularly as regards the dissemination of international trade law,

Concerned that activities undertaken by other bodies of the United Nations system in the field of international trade law without coordination with the Commission might lead to undesirable duplication of efforts and would not be in

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[2] Ibid.

keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law, as stated in its resolution 47/106 of 16 December 1992,

Having considered the report of the Secretary-General,[3]

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session;

2. Notes with satisfaction the completion and adoption by the Commission of the Model Law on Electronic Commerce;[4]

3. Commends the Commission for the finalization of the Notes on Organizing Arbitral Proceedings;[5]

4. Expresses its appreciation for the progress made in its work on the subjects of receivables financing and cross-border insolvency;

5. Welcomes the decision by which the Commission requested the Secretariat to review, with the assistance of experts and in cooperation with other international organizations having expertise in build-operate-transfer arrangements, issues on which legislative guidance might be useful, and to commence the preparation of a legislative guide on build-operate-transfer projects;

6. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field and, in this connection:

(a) Calls upon all bodies of the United Nations system and invites other international organizations to bear in mind the mandate of the Commission and the need to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law;

(b) Recommends that the Commission, through its secretariat, continue to maintain close cooperation with the other international organs and organizations, including regional organizations as well as other bodies, such as the International Institute for the Unification of Private Law, which are active in the field of international trade law and other related areas;

7. Also reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission;

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[3] A/51/382.

[4] Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17), annex I.

[5] Ibid., Supplement No. 17 (A/51/17), chap. II.

8. Expresses the desirability for increased efforts by the Commission in sponsoring seminars and symposia to provide such training and technical assistance, and in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars and briefing missions in Belarus, Chile, Colombia, Gabon, Guinea, Greece, the Islamic Republic of Iran, Kazakstan, New Zealand, Paraguay, Slovenia, Turkey and the United Arab Emirates;

(b) Expresses its appreciation to the Governments whose contributions made it possible for the seminars and briefing missions to take place, and appeals to Governments, the relevant United Nations organs, organizations and institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

9. Appeals to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

10. Appeals to Governments, the relevant United Nations organs, organizations and institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the Trust Fund for travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;

11. Decides to include the Trust Fund for Symposia and the Trust Fund for travel assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities;

12. Also decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue its consideration in the competent Main Committee during the fifty-first session of the General Assembly of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

13. Requests the Secretary-General to ensure the effective implementation of the programmes of the Commission;

14. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions.

DRAFT RESOLUTION II

Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law, with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Noting that an increasing number of transactions in international trade are carried out by means of electronic data interchange and other means of communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information,

Recalling the recommendation on the legal value of computer records adopted by the Commission at its eighteenth session, in 1985, and paragraph 5 (b) of General Assembly resolution 40/71 of 11 December 1985, in which the Assembly called upon Governments and international organizations to take action, where appropriate, in conformity with the recommendation of the Commission,[6] so as to ensure legal security in the context of the widest possible use of automated data processing in international trade,

Convinced that the establishment of a model law facilitating the use of electronic commerce that is acceptable to States with different legal, social and economic systems could contribute significantly to the development of harmonious international economic relations,

Noting that the Model Law on Electronic Commerce was adopted by the Commission at its twenty-ninth session after consideration of the observations of Governments and interested organizations,

Believing that the adoption of the Model Law on Electronic Commerce by the Commission will assist all States significantly in enhancing their legislation governing the use of alternatives to paper-based methods of communication and storage of information and in formulating such legislation where none currently exists,

1. Expresses its appreciation to the United Nations Commission on International Trade Law for completing and adopting the Model Law on Electronic Commerce contained in the annex to the present resolution and for preparing the Guide to Enactment of the Model Law;

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[6] Ibid., Fortieth Session, Supplement No. 17 (A/40/17), chap. VI, sect. B.

2. Recommends that all States give favourable consideration to the Model Law on Electronic Commerce when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

3. Recommends also that all efforts be made to ensure that the Model Law, together with the Guide, become generally known and available.

ANNEX

Model Law on Electronic Commerce of the United Nations Commission on International Trade Law

PART ONE. ELECTRONIC COMMERCE IN GENERAL

CHAPTER I. GENERAL PROVISIONS

Article 1

Sphere of application[7]

This Law[8] applies to any kind of information in the form of a data message used in the context[9] of commercial[10] activities.

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[7] The Commission suggests the following text for States that might wish to limit the applicability of this Law to international data messages:

"This Law applies to a data message as defined in paragraph 1 of article 2 where the data message relates to international commerce."

[8] This Law does not override any rule of law intended for the protection of consumers.

[9] The Commission suggests the following text for States that might wish to extend the applicability of this Law:

"This Law applies to any kind of information in the form of a data message, except in the following situations: [...]."

[10] The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

Article 2

Definitions

For the purposes of this Law:

(a) "Data message" means information generated, sent, received or stored by electronic, optical or similar means including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy;

(b) "Electronic data interchange (EDI)" means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

(c) "Originator" of a data message means a person by whom, or on whose behalf, the data message purports to have been sent or generated prior to storage, if any, but it does not include a person acting as an intermediary with respect to that data message;

(d) "Addressee" of a data message means a person who is intended by the originator to receive the data message, but does not include a person acting as an intermediary with respect to that data message;

(e) "Intermediary", with respect to a particular data message, means a person who, on behalf of another person, sends, receives or stores that data message or provides other services with respect to that data message;

(f) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages.

Article 3

Interpretation

1. In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

2. Questions concerning matters governed by this Law that are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 4

Variation by agreement

1. As between parties involved in generating, sending, receiving, storing or otherwise processing data messages, and except as otherwise provided, the provisions of chapter III may be varied by agreement.

2. Paragraph 1 does not affect any right that may exist to modify by agreement any rule of law referred to in chapter II.

CHAPTER II. APPLICATION OF LEGAL REQUIREMENTS TO DATA MESSAGES

Article 5

Legal recognition of data messages

Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

Article 6

Writing

1. Where the law requires information to be in writing, that requirement is met by a data message if the information contained therein is accessible so as to be usable for subsequent reference.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being in writing.

3. The provisions of this article do not apply to the following: [...].

Article 7

Signature

1. Where the law requires a signature of a person, that requirement is met in relation to a data message if:

(a) A method is used to identify that person and to indicate that person's approval of the information contained in the data message; and

(b) That method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the absence of a signature.

3. The provisions of this article do not apply to the following: [...].

Article 8

Original

1. Where the law requires information to be presented or retained in its original form, that requirement is met by a data message if:

(a) There exists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as a data message or otherwise; and

(b) Where it is required that information be presented, that information is capable of being displayed to the person to whom it is to be presented.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

3. For the purposes of subparagraph (a) of paragraph 1:

(a) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and

(b) The standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

4. The provisions of this article do not apply to the following: [...].

Article 9

Admissibility and evidential weight of data messages

1. In any legal proceedings, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of a data message in evidence:

(a) On the sole ground that it is a data message; or

(b) If it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in its original form.

2. Information in the form of a data message shall be given due evidential weight. In assessing the evidential weight of a data message, regard shall be had to the reliability of the manner in which the data message was generated, stored or communicated, to the reliability of the manner in which the integrity of the information was maintained, to the manner in which its originator was identified, and to any other relevant factor.

Article 10

Retention of data messages

1. Where the law requires that certain documents, records or information be retained, that requirement is met by retaining data messages, provided that the following conditions are satisfied:

(a) The information contained therein is accessible so as to be usable for subsequent reference; and

(b) The data message is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and

(c) Such information, if any, is retained as enables the identification of the origin and destination of a data message and the date and time when it was sent or received.

2. An obligation to retain documents, records or information in accordance with paragraph 1 does not extend to any information the sole purpose of which is to enable the message to be sent or received.

3. A person may satisfy the requirement referred to in paragraph 1 by using the services of any other person, provided that the conditions set forth in subparagraphs (a), (b) and (c) of paragraph 1 are met.

CHAPTER III. COMMUNICATION OF DATA MESSAGES

Article 11

Formation and validity of contracts

1. In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed by means of data messages. Where a data message is used in the formation of a contract, that contract shall not be denied validity or enforceability on the sole ground that a data message was used for that purpose.

2. The provisions of this article do not apply to the following: [...].

Article 12

Recognition by parties of data messages

1. As between the originator and the addressee of a data message, a declaration of will or other statement shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

2. The provisions of this article do not apply to the following: [...].

Article 13

Attribution of data messages

1. A data message is that of the originator if it was sent by the originator itself.

2. As between the originator and the addressee, a data message is deemed to be that of the originator if it was sent:

(a) By a person who had the authority to act on behalf of the originator in respect of that data message; or

(b) By an information system programmed by or on behalf of the originator to operate automatically.

3. As between the originator and the addressee, an addressee is entitled to regard a data message as being that of the originator, and to act on that assumption, if:

(a) In order to ascertain whether the data message was that of the originator, the addressee properly applied a procedure previously agreed to by the originator for that purpose; or

(b) The data message as received by the addressee resulted from the actions of a person whose relationship with the originator or with any agent of the originator enabled that person to gain access to a method used by the originator to identify data messages as its own.

4. Paragraph 3 does not apply:

(a) As of the time when the addressee has both received notice from the originator that the data message is not that of the originator, and had reasonable time to act accordingly; or

(b) In a case within paragraph 3 (b), at any time when the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was not that of the originator.

5. Where a data message is that of the originator or is deemed to be that of the originator, or the addressee is entitled to act on that assumption, then, as between the originator and the addressee, the addressee is entitled to regard the data message as received as being what the originator intended to send, and to act on that assumption. The addressee is not so entitled when it knew or should have known, had it exercised reasonable care or used any agreed procedure, that the transmission resulted in any error in the data message as received.

6. The addressee is entitled to regard each data message received as a separate data message and to act on that assumption, except to the extent that it duplicates another data message and the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was a duplicate.

Article 14

Acknowledgement of receipt

1. Paragraphs 2 to 4 of this article apply where, on or before sending a data message, or by means of that data message, the originator has requested or has agreed with the addressee that receipt of the data message be acknowledged.

2. Where the originator has not agreed with the addressee that the acknowledgement be given in a particular form or by a particular method, an acknowledgement may be given by:

(a) Any communication by the addressee, automated or otherwise; or

(b) Any conduct of the addressee,

sufficient to indicate to the originator that the data message has been received.

3. Where the originator has stated that the data message is conditional on receipt of the acknowledgement, the data message is treated as though it has never been sent, until the acknowledgement is received.

4. Where the originator has not stated that the data message is conditional on receipt of the acknowledgement, and the acknowledgement has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed, within a reasonable time the originator:

(a) May give notice to the addressee stating that no acknowledgement has been received and specifying a reasonable time by which the acknowledgement must be received; and

(b) If the acknowledgement is not received within the time specified in subparagraph (a), may, upon notice to the addressee, treat the data message as though it had never been sent, or exercise any other rights it may have.

5. Where the originator receives the addressee's acknowledgement of receipt, it is presumed that the related data message was received by the addressee. That presumption does not imply that the data message corresponds to the message received.

6. Where the received acknowledgement states that the related data message met technical requirements, either agreed upon or set forth in applicable standards, it is presumed that those requirements have been met.

7. Except insofar as it relates to the sending or receipt of the data message, this article is not intended to deal with the legal consequences that may flow either from that data message or from the acknowledgement of its receipt.

Article 15

Time and place of dispatch and receipt of data message

1. Unless otherwise agreed between the originator and the addressee, the dispatch of a data message occurs when it enters an information system outside the control of the originator or of the person who sent the data message on behalf of the originator.

2. Unless otherwise agreed between the originator and the addressee, the time of receipt of a data message is determined as follows:

(a) If the addressee has designated an information system for the purpose of receiving data messages, receipt occurs:

(i) At the time when the data message enters the designated information system; or

(ii) If the data message is sent to an information system of the addressee that is not the designated information system, at the time when the data message is retrieved by the addressee;

(b) If the addressee has not designated an information system, receipt occurs when the data message enters an information system of the addressee.

3. Paragraph 2 applies notwithstanding that the place where the information system is located may be different from the place where the data message is deemed to be received under paragraph 4.

4. Unless otherwise agreed between the originator and the addressee, a data message is deemed to be dispatched at the place where the originator has its place of business, and is deemed to be received at the place where the addressee has its place of business. For the purposes of this paragraph:

(a) If the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction, the principal place of business;

(b) If the originator or the addressee does not have a place of business, reference is to be made to its habitual residence.

5. The provisions of this article do not apply to the following: [...].

PART TWO. ELECTRONIC COMMERCE IN SPECIFIC AREAS

CHAPTER I. CARRIAGE OF GOODS

Article 16

Actions related to contracts of carriage of goods

Without derogating from the provisions of part I of this Law, this chapter applies to any action in connection with, or in pursuance of, a contract of carriage of goods, including but not limited to:

(a) (i) Furnishing the marks, number, quantity or weight of goods;

(ii) Stating or declaring the nature or value of goods;

(iii) Issuing a receipt for goods;

(iv) Confirming that goods have been loaded;

(b) (i) Notifying a person of terms and conditions of the contract;

(ii) Giving instructions to a carrier;

(c) (i) Claiming delivery of goods;

(ii) Authorizing release of goods;

(iii) Giving notice of loss of, or damage to, goods;

(d) Giving any other notice or statement in connection with the performance of the contract;

(e) Undertaking to deliver goods to a named person or a person authorized to claim delivery;

(f) Granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;

(g) Acquiring or transferring rights and obligations under the contract.

Article 17

Transport documents

1. Subject to paragraph 3, where the law requires that any action referred to in article 16 be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for failing either to carry out the action in writing or to use a paper document.

3. If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages, provided that a reliable method is used to render such data message or messages unique.

4. For the purposes of paragraph 3, the standard of reliability required shall be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

5. Where one or more data messages are used to effect any action in subparagraphs (f) and (g) of article 16, no paper document used to effect any such action is valid unless the use of data messages has been terminated and replaced by the use of paper documents. A paper document issued in these circumstances shall contain a statement of such termination. The replacement of data messages by paper documents shall not affect the rights or obligations of the parties involved.

6. If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage of goods that is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or messages instead of by a paper document.

7. The provisions of this article do not apply to the following: [...].

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REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Report of the Committee on Relations with the Host Country" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 50/49 of 11 December 1995.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 47th and 48th meetings, on 26 and 27 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.47 and 48).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Committee on Relations with the Host Country;[1]

(b) Letter dated 12 April 1996 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the Secretary-General (A/51/115);

[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 26 (A/51/26).

(c) Letter dated 1 May 1996 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General (A/51/126).

5. At the 47th meeting, on 26 November, the report of the Committee on Relations with the Host Country was introduced by its Chairman.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/51/L.14

6. At the 47th meeting, on 26 November, the representative of Cyprus, on behalf of Bulgaria, Canada, Costa Rica, Côte d'Ivoire, Cyprus and Spain, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country" (A/C.6/51/L.14).

7. At its 48th meeting, on 27 November, the Committee adopted draft resolution A/C.6/51/L.14 without a vote (see para. 8).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,[2]

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[3] and the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,[4] and the responsibilities of the host country,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

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[2] Ibid.

[3] Resolution 22 A (I).

[4] See resolution 169 (II).

Noting the spirit of cooperation and mutual understanding that has guided the deliberations of the Committee on issues affecting the United Nations community and the host country,

Welcoming the increased interest shown by Member States in participating in the work of the Committee,

1. Endorses the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 65 of its report;[2]

2. Considers that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations is in the interests of the United Nations and all Member States, and requests the host country to continue to take all measures necessary to prevent any interference with the functioning of missions;

3. Expresses its appreciation for the efforts made by the host country, and hopes that the concerns raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

4. Notes with appreciation the efforts of the Committee which have contributed to a decrease in the amount of diplomatic indebtedness, stresses that existing indebtedness continues to be a matter of significant concern to the United Nations and that non-payment of just debts tarnishes the image of the Organization itself, and reaffirms that non-compliance with contractual obligations cannot be condoned or justified;

5. Welcomes the efforts of the Committee aimed at identifying affordable health care programmes for the diplomatic community;

6. Once again urges the host country to consider lifting travel controls with regard to certain missions and to staff members of the Secretariat of certain nationalities, and in this regard notes the positions of the affected States, the Secretary-General and the host country;

7. Notes with satisfaction the steps taken by the host country at John F. Kennedy International Airport with regard to special passages for members of the United Nations community and urges the host country to continue to take appropriate action in this regard to ensure application of those procedures;

8. Calls upon the host country to review measures and procedures relating to the parking of diplomatic vehicles, with a view to responding to the growing needs of the diplomatic community, and to consult with the Committee on these issues;

9. Requests the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

10. Requests the Committee to continue its work, in conformity with General Assembly resolution 2819 (XXVI) of 15 December 1971;

11. Decides to include in the provisional agenda of its fifty-second session the item entitled "Report of the Committee on Relations with the Host Country".